

**Notice of Allowability**

Application No.

09/784,444

Examiner

Rip A. Lee

Applicant(s)

KANAMARU ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to March 30, 2004.
2. ☒ The allowed claim(s) is/are 1, 12-15, 17 and 18.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                     | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

### DETAILED ACTION

This office action follows a response filed on March 30, 2004. Applicants have canceled claim 16. Claims 1, 12-15, 17, and 18 remain.

#### *Allowable Subject Matter*

The following is an examiner's statement of reasons for allowance: Claims 1, 12-15, 17, and 18 are allowed over the closest reference, JP 11-130807 to Kanamaru *et al.*

The present invention is drawn to a propylene polymer with the following properties:

- (1)  $\Delta H \geq 0.45 T_m + 22$ ;  $\Delta H$  is heat of fusion (J/g) and  $T_m$  is melting point (°C)
- (2)  $111 \leq T_m \leq 140$
- (3)  $T_h \leq 5$ ,  $T_h$  is width at half height (*o*-CDB, 0-135 °C, 40 °C/hr)
- (4)  $[\eta] = 0.5$  to 5 dL/g;  $[\eta]$  is intrinsic viscosity.

Kanamaru *et al.* teaches a method for preparing propylene homopolymer and propylene copolymer using metallocenes similar to those recited in the present claims. Vapor phase polymerization is contemplated, and the inventors instruct that liquid monomer may be used as solvent. Polymers of the invention have *mmmm* value of greater than 60 mole %, and the Table on page 17 displays samples with *mmmm* in the range of 66.8 to 81 mole %. The melting point of these polymers ranges from 113-135 °C.

Applicants have shown in a declaration submitted under 37 C.F.R. § 1.132 that catalysts of Kanamaru *et al.* result in the formation of propylene polymer having an intrinsic viscosity which lies outside the range presently claimed.

Therefore, the prior art fails to teach or make obvious the subject matter of the present invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Information Disclosure Statement***

Whereas PAIR indicates receipt of the document, it does not reflect internal errors associated with the IFW scanning process. Indeed, the information disclosure statement (IDS) submitted on February 24, 2003 was not received in electronic format by the examiner. Any prevarication by the examiner on this simple matter would be fruitless, and Applicants' retort is unnecessary.


Applicants have furnished another copy in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

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June 21, 2004

  
DAVID W. WU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700